

ANALYSIS

This ordinance amends Title 1 - General Provisions, and Title 2 - Administration,
by:

- amending Chapter 1.25 allow for an administrative fine consistent with Chapter 2.190 which provides for fines of up to \$5,000 per violation;
- amending Chapter 2.160 to require the executive officer to provide the Registrar-Recorder/County Clerk with the electronic lists of county lobbyists and to prohibit lobbyists from making contributions consistent with Chapter 2.190;
- amending Chapter 2.190 to allow for the issuance of an administrative fine in the case of a violation of any of the contribution limits or prohibitions set forth in the Chapter, and to specify that the Registrar-Recorder is responsible for the administration and the imposition of administrative fines, to make it a violation for a county lobbyist or lobbying firm to make a campaign contribution to a county official or candidate for county office, and to make other changes which further the purpose of the Chapter.

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By
JUDY W. WHITEHURST
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TA:ds

ORDINANCE NO. _____

An ordinance amending Title 1 - General Provisions and Title 2 - Administration, of the Los Angeles County Code, relating to political campaigns for county offices ("Proposition B"), the addition of an administrative fine process for campaign finance violations, the addition of reciprocal violations for county lobbyists making campaign contributions, clarification that the registrar-recorder will administer and impose the administrative fine as well as monitor compliance with the ordinance, and other changes which further the purpose of Proposition B.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Section 1.25.040 is hereby amended to read as follows:

1.25.040 Administrative fines.

A. Each violation of any provision of this code and each separate offense designated by this code shall be subject to an administrative fine, as provided for in this chapter.

B. The amount of the administrative fine shall be determined by the enforcement officer, based on the nature and extent of the violation and the particular circumstances of the responsible person(s), subject to the following limitations:

1. If this code designates the violation as an infraction, the amount of the administrative fine shall not exceed the maximum amount provided for in section 25132 of the California Government Code, for fines applicable to infractions; and,

2. For all other violations of this code, except for violations of chapter 2.190, the amount of the administrative fine shall not exceed \$1,000.

SECTION 2. Section 2.160.100 is hereby amended to read as follows:

2.160.100 Public records.

Each calendar quarter, the executive officer of the board of supervisors shall compile a list of all county lobbyists, county lobbying firms and county lobbyist employers. Such a list and each registration or report required to be filed pursuant to this chapter shall be a public record subject to disclosure under the provisions of the California Public Records Act. The executive officer shall provide the list of county lobbyists and county lobbying firms to the registrar-recorder electronically for compliance with chapter 2.190 of this code.

SECTION 3. Section 2.160.130 is hereby amended to read as follows:

2.160.130 General prohibitions.

No county lobbyist or county lobbying firm shall do any of the following:

A. Do anything with the purpose of placing any county official under personal obligation to the county lobbyist, the county lobbying firm, or the employer of the county lobbyist or county lobbying firm;

B. Deceive or attempt to deceive any county official with regard to any material fact pertinent to any pending or proposed official action;

C. Cause or influence the introduction of any matter for consideration by the county as official action for the purpose of thereafter being employed to influence the occurrence or non-occurrence of such official action;

D. Attempt to create a fictitious appearance of public favor or disfavor of any proposed official action or to cause any communication to be sent to any county official in the name of any fictitious person or in the name of any real person without the consent of such person;

E. Represent, either directly or indirectly, that the county lobbyist or county lobbying firm can control the official action of any county official;

F. Accept or agree to accept any payment in any way contingent upon success by the county lobbyist or county lobbying firm in influencing official action.

G. No person or firm who is registered under this chapter as a county lobbyist or county lobbying firm or who has been so registered at any time in the previous 12 months shall make any contribution to any county official or candidate for county office consistent with chapter 2.190 of this code.

SECTION 4. Section 2.190.035 is hereby added to read as follows:

2.190.035 Maintenance of accounts and records.

It shall be the duty of each candidate to maintain such detailed accounts, records, bills and receipts as are necessary to prepare campaign statements and to comply with the provisions of this chapter. The detailed accounts, records, bills and receipts that are maintained shall be retained by the filer for a period of four (4) years. Each candidate shall provide the detailed accounts, records, bills and receipts upon request by the registrar-recorder.

SECTION 5. Section 2.190.130 is hereby amended to read as follows:

2.190.130 Lobbyist contributions.

No county official or candidate for county office shall knowingly solicit or accept any contribution to his or her campaign for county office or to his or her officeholder account or attorney's fees fund from any person or firm who is registered under Chapter 2.160 as a county lobbyist or county lobbying firm or who has been so registered at any time in the previous 12 months. No person or firm who is registered under Chapter 2.160 as a county lobbyist or county lobbying firm or who has been so registered at any time in the previous 12 months shall make any contribution to any county official or candidate for county office.

SECTION 6. Section 2.190.140 is hereby amended to read as follows:

2.190.140 Violations and enforcement.

A. Any person who knowingly violates any provision of this chapter, is guilty of a misdemeanor which may be punished by imprisonment in the county jail for not exceeding six months, or by a fine not exceeding \$1,000.00, or by both.

B. In addition to the penalty set forth in subsection A and C of this section, any person who intentionally or negligently violates any section ~~any violation~~ of this chapter shall be subject to a civil penalty of up to three times the amount by which any applicable expenditure or contribution limit has been exceeded or \$5,000.00, whichever is greater.

C. (1) In addition to the penalties set forth in subsections A and B of this section, any person who intentionally or negligently violates any provision of this chapter which prohibits or limits contributions shall be subject to an administrative fine, issued pursuant to chapter 1.25 of this code, of up to three times the amount by which any applicable contribution limit has been exceeded or \$5,000.00, whichever is greater. Notwithstanding the provisions of chapter 1.25 of this code, in imposing the administrative fine, the registrar-recorder shall issue a notification of violation setting forth the intent to issue a proposed administrative fine and set a hearing date. The purpose of the hearing would be to allow the candidate the opportunity to challenge the fine and also to allow the hearing officer, if so requested by the registrar-recorder, to make recommendations as to the appropriateness of the proposed fine and its amount, through a process which may include taking evidence and testimony, and calling

witnesses. Should the candidate choose not to challenge the fine, the registrar-recorder may, at his discretion, determine the amount of the fine without a hearing and without a recommendation from a hearing officer. Whether or not a violation is inadvertent, negligent or deliberate, and the presence or absence of good faith shall be considered by the registrar-recorder in determining the amount of the administrative fine to be imposed.

(2) Notwithstanding the provisions of subsection C (1) above, no administrative fine shall be issued if a contribution received in violation of this chapter is returned and the candidate submits an amended campaign statement reflecting that the contribution has been returned within thirty (30) days of the date in which the candidate has actual knowledge of the contribution or the date of the filing a campaign statement required by Government Code § 84200 et seq. or by this chapter on which such contribution is reported, whichever is earlier.

~~C. This chapter shall be administered by the registrar-recorder who shall recommend rules governing this chapter. Such rules shall be effective if approved by a majority vote of the board of supervisors.~~

D. The registrar-recorder shall be responsible for the administration of this chapter, which shall include, but is not limited to, the receipt and review of mandatory candidate filings, investigation of any potential violations of this chapter reflected in those filings, and receipt and investigation of complaints that a person has violated any provision of this chapter. Additionally, the registrar-recorder shall be designated the enforcement officer responsible for final determination and imposition of

administrative fines to be issued and for appearances before the administrative hearing officer as provided for in §§ 1.25.050 and 1.25.060 of this code, in addition to the provisions of this chapter. The registrar-recorder shall also recommend rules governing this chapter. Such rules shall be effective if approved by a majority vote of the board of supervisors.

~~D.~~ E. The registrar-recorder and the district attorney shall receive and investigate complaints that a person has violated a provision of this chapter. When the registrar-recorder has evidence of a violation of this chapter, he or she ~~may refer the matter~~ shall give initial notice of the violation to the district attorney. ~~, who shall have authority to seek the imposition of any penalty allowed by this section. In addition, the registrar-recorder shall provide notification of the final resolution of each violation to the district attorney.~~

~~E.~~ F. The district attorney shall be the enforcement officer responsible for prosecution of the civil penalties and criminal charges. In addition, Any person residing in the county may bring a civil action to enjoin violations of this chapter or to compel compliance with any provision of this chapter by following the procedures set forth in Government Code sections 91003 et. seq., except that the civil prosecutor shall be the district attorney.

~~F.~~ G. Within 60 days after the enactment of this chapter the registrar-recorder and the district attorney shall each designate persons within their respective offices who will be responsible for the enforcement and administration of the duties assigned to them under this chapter. Nothing in this chapter shall preclude the county

from contracting with a state agency to administer and/or enforce any provision of this chapter, including conducting administrative hearings pursuant to Government Code section 27727.

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